

BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES
ITEMS FOR DISCUSSION AND ACTION\FISCAL, FACILITIES AND AUDIT

ACTION: **First and Final Round Approval of Revisions to Board Policy 9002; Revenue Bonds; Leases, Rental of Property, Pledge of Fees and Revenue and Deletion of Board Policy 9003; Revenue Bonds; Amortization**

Board Policy 9002 is being reformatted, updated, renumbered and renamed 8026 - Lease-Purchase Financing. This policy has substantive changes that significantly alter the original language and significantly change the previous policy guidance. After several exchanges with Bond Counsel, it was determined that the current policy had combined statutes related to the Auxiliary System with statutes that relate to the potential lease-purchase financing of a facility that fits the definition of facilities found within the Auxiliary System, but would never be part of the System. For example, a housing development that was acquired through a lease-purchase arrangement, would not be part of the Auxiliary System. For this reason, the policy is being moved to the Facilities section of the Board's policy manual.

The updated language in the policy clarifies that the Board cannot commit revenues from the Auxiliary System to finance or support a lease-purchased facility. The revenues from the Auxiliary System are committed to bond holders and cannot be used to support non-Auxiliary facilities. Other revenues could be committed with approval of the Legislature.

Policy 9003 which talks about committing revenues is being deleted because the specific revenues that can be pledged to the Auxiliary System is addressed in 9000, and the funding for lease-purchased facilities is addressed in policy 9002.

Language related to establishing and setting fees is being moved to policy 9200. The language related to the leasing of properties is duplicative of policy 8027 so it is being removed.

The policy revisions were reviewed by Board bond counsel, legal counsel and the appropriate councils.

The System Office recommends approval of the Revisions to Board Policy 9002 and Deletion of Board Policy 9003.

ATTACHMENTS:

- Revisions to Board Policy 9002 (PDF)
- Deletion of Board Policy 9003 (PDF)

Board of Trustees of the Nebraska State Colleges

Facilities

POLICY NAME: ~~Revenue Bonds; Leases, Rental Property, Pledge of Fees and Revenues~~ Lease-Purchase Financing

POLICY NUMBER: ~~90028026~~

A. PURPOSE

To provide the parameters related to the lease-purchase option to finance revenue facilities that are not part of the Auxiliary System.

B. DEFINITIONS

1. Auxiliary System – Facilities comprised of housing facilities, buildings and structures used for athletic and wellness purposes, student centers, medical centers and parking facilities that are pledged under a bond resolution.
2. Revenue Facility - Facilities comprised of housing facilities, buildings and structures used for athletic and wellness purposes, student centers, medical centers and parking facilities that produce revenue necessary to support the facility.

C. POLICY

1. Site of Lease-Purchase Facility

The Board ~~of Trustees~~ is authorized to lease to any persons, firms or corporations portions of the respective campuses under their control as may be necessary to be used as sites for construction of fireproof buildings for dormitories, boarding, housing and student activity purposes, athletic structures and parking, or as sites for the establishment of parking facilities.

1.1. Athletic Facility on State Property

The Board may also lease from any person, firm or corporation an athletic structure or structures constructed on a site or sites owned by the State of Nebraska when the person, firm or corporation has the permission of the Legislature to construct on such site or sites.

1.2. Acquiring Land to Lease

The Board may acquire lands adjacent to the campus of any such institution by donation or purchase with any funds they may have available for that purpose to be leased as sites for such buildings and facilities. The colleges must follow policy 8002 to acquire real property.

2. Lease-Purchase

In connection with such financing, the Board may has the authority to contract with the owners of the buildings ~~or~~ and facilities ~~so~~ erected on land leased from the Board for the purpose of providing housing, for athletic and wellness purposes, student centers, medical care or parking facilities. The building and facilities ~~so erected or established shall be used solely for dormitories, student centers, medical care, food service, athletic activities and for parking as the case may be.~~ The Board may also contract with the owner of an athletic facility erected on state property, with approval of the Legislature.

2.1. Lease or Rental Rate

The rental or lease rate for the use of the buildings or facilities to pay as rental or otherwise for the use of said buildings and facilities will be an amount ~~a sum~~ sufficient to pay, on the amortization plan, the principal and interest on an amortization schedule not to run more than 40 years, thereon of the cost of construction or establishment of said buildings and facilities, such contracts to run not over forty (40) years

2.2. Amortization Interest Rate

The rate of interest allowed on the cost of construction and related costs ~~or establishment~~ shall be fixed by the Board and, payable annually or semiannually, ~~as may be determined by the Board~~

2.3. Title

The ~~Said~~ contract shall provide that when the cost of construction and related costs or establishment has been satisfied according to the amortization schedule, paid, together with interest thereon, that the buildings and facilities ~~so constructed or established~~ shall become the property of the Board. State of Nebraska.

3. Funding Source

The Board may, by resolution or agreement, pledge all or any part of the revenues and fees derived from operation of the dormitories, residence halls, single or multiple dwelling units, buildings and facilities for parking and other facilities for housing, boarding, athletic purposes, medical care, and physical development, and other activities of students, faculties or employees of such institutions referred to in Section 85-403, or any of them erected or acquired, or previously erected or acquired by such Board, and contract as to the care,

~~insurance, management, and operation of such buildings and facilities and the charges to be made and the rights of the holders of the revenue bonds.~~

~~The Board may pledge all or any part of the net revenues and fees derived from the operation of housing facilities, buildings and structures used for athletic and wellness purposes, student centers, medical centers and parking facilities that are not part of the Auxiliary System, to pay the required principal and interest cost.~~

3.1. Limitations

~~In no case is the Board authorized to pledge the credit of the State of Nebraska for the payment of any sum or sums over and above the net income derived from the leased facility use of said unless facilities and provided further that there may be pledged for the payment of such contracts any State appropriations is specifically made for such purposes of the Legislature.~~

3.2. Legislative Approval

~~If the Board proposes to pledge all or any part of the revenues and fees from buildings and facilities other than the buildings or facility to be constructed, the plans for such building or facility to be constructed, including financing plans, shall first be submitted to the Legislature or the Executive Board of the Legislative Council for approval.~~

~~The State of Nebraska shall incur no liability by reason of the exercise of the authority herein granted to the Board of Trustees other than is hereinafter specifically set forth.~~

~~This language is being moved to 9200.~~

~~When the Board contracts that the operation of any building or facility or part thereof shall be performed other than by the Board itself, the Board shall at all times maintain supervision and control over the fees and charges imposed for the use thereof.~~

~~The leasing of properties is already addressed in Policy 8027.~~

~~If such facilities are not needed for their original purpose, the Board may authorize the colleges to enter into agreements with other entities for rental of vacant space. Lease agreements shall contain a restriction prohibiting the lessee from making material alterations or improvements on or to the leased property without prior written authorization of the college President and Board's Chancellor. The President is authorized to approve all lease agreements with rental of less than \$10,000 annually. Such agreements shall be signed by the President or Vice President for Administration and Finance. The Chancellor, upon recommendation of the President, is authorized to approve lease agreements with rental between \$10,000 and \$24,000 annually. Lease agreement between \$10,000 and \$24,000 annually shall be signed by the President or Vice President for Administration and Finance and then by the Chancellor or Vice Chancellor for Finance and Administration or General Counsel. All lease agreements exceeding \$10,000 shall be submitted to the Board of Trustees for approval prior to entering into them. Lease~~

~~agreements exceeding \$24,000, once approved by the Board, shall be signed by the President or Vice President for Administration and Finance and then by the Chancellor or Vice Chancellor for Finance and Administration or General Counsel. Renewal of lease agreements approved previously by the Board may be approved by the Chancellor and signed in accordance with the requirements for the original lease agreement unless substantial revisions are proposed for the terms of the agreement. Copies of all signed lease agreements shall be filed with the System Office. Rental charged shall be comparable to that charged in that geographic region for similar facilities. Revenue from such rental shall be deposited into the revenue bond revenue fund of that institution.~~

FORMS/APPENDICES:

None

SOURCE:

Legal Reference:	Neb. Rev. Stat. 85-401	Board of Regents; Board of Trustees; C <u>campus</u> buildings and facilities; lease-purchase agreements authorized; <u>conditions.</u>
	Neb. Rev. Stat. 85-402	Campus buildings and facilities; pledge of income and appropriations authorized; limitations.
	Neb. Rev. State. 85-404	Dormitories; housing facilities; parking facilities; other facilities; revenue bonds; issuance; approval; <u>submission to Coordinating Commission for Postsecondary Education and</u> <u>ed by</u> Legislature.

Policy Adopted: March 1994

Policy Revised: November 1995, September 2006, March 2013, June 2014, [June 2023](#)

NOTE: The content of this policy was moved to 9001 and 9002 and revised as appropriate.

REVENUE BOND – AUXILIARY OPERATIONS, NEBRASKA STATE COLLEGES

POLICY: 9003 Revenue Bonds; Amortization Page 1 of 1

BOARD POLICY

~~The Board may expend net revenues from operations and any part or all rentals from rooms, dormitories, dining rooms, housing, student activity facilities, parking facilities and athletic facilities to pay on the amortization plan, the required principal and interest payments on bonds issued. The Board may also expend any part of net revenue for the construction of the type of facilities listed previously or may enter into contracts for said construction and to pledge, on behalf of the respective institutions, the net income toward payment of construction costs, provided that in no case is the Board authorized to pledge the credit of the State of Nebraska for the payment of any sum or sums over and above the net income derived from the use of said facilities; and provided further that there may be pledged for the payment of such contracts any appropriations specifically made for such purposes of the Legislature.~~

Legal Reference: RRS 85-402

Campus buildings and facilities; pledge of income and appropriations authorized; limitations

Policy Adopted: 3/11/94